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**IN THE UNITED STATES DISTRICT COURT FOR THE
 DISTRICT OF WYOMING**

**BONTECOU CONSTRUCTION,
 INC.
 a Wyoming corporation,**

Plaintiff,

vs.

**FIRST INTERSTATE BANK,
 a Montana Corporation,
 NADOWESSIOUX PROPERTIES,
 LTD., a Texas limited partnership,
 CHARLES M. HADEN, JR.,
 individually, and SHELLEY
 HADEN, individually.**

Defendants.

Civil Action No. 2:10-cv-00275-WFD

**NADOWESSIOUX PROPERTIES,
 LTD., a Texas limited partnership
 and CHARLES M. HADEN, JR.
 individually**

Plaintiffs,

vs.

**BONTECOU CONSTRUCTION,
 INC., a Wyoming corporation and
 STEVE BONTECOU, individually.**

Defendants.

Civil Act. No. 2:10-cv-00280-ABJ

**NADOWESSIOUX PROPERTIES, INC.'S RESPONSE TO THE MOTIONS TO
REMAND FILED BY BONTECOU CONSTRUCTION, INC.**

Nadowessieux Properties, Ltd. ("Nadowessieux") would respectfully show the Court:

Argument & Authority

1. *Venue motion.* There is substantial overlap among the factors that bear on whether venue should be transferred and/or a matter should be remanded to state court. For that reason, Nadowessieux incorporates by reference its motion to transfer venue to the Houston Bankruptcy Court assigned docket number 16 in civil action number 10-cv-2075.

2. *Jury right waived.* Bontecou has filed a proof of claim in Nadowessieux's bankruptcy case. In it Bontecou asserts the same claims it makes in this lawsuit. See the attached **Exhibit A**. It has therefore waived its right to a jury trial. See *Langenkamp v. Hackler (In re Republic Trust & Sav. Co.)*, 897 F.2d 1041, 1043 (10th Cir.), *rev'd in part on other grounds sub nom., Langenkamp v. Culp*, 498 U.S. 42, 112 L. Ed. 2d 343, 111 S. Ct. 330 (1990). (respondents who filed claims against the bankruptcy estate on a bankruptcy trustee's preference claim were not entitled to a jury trial).

3. *Pending claim objection proceeding.* In its bankruptcy case, Nadowessieux has filed an objection to the claim of Bontecou. A copy is attached and marked **Exhibit B**. Hearing on the objection is currently set for March 7, 2011. See the attached **Exhibit C**. Bontecou's claims in this lawsuit are the same claims that the Houston Bankruptcy Court will be adjudicating.

4. *"Core" issues.* Whether Bontecou's claim asserted in the bankruptcy case is a "core" bankruptcy issue. "Core proceedings include, but are not limited to—'(A) matters concerning the administration of the estate; '(B) allowance or disallowance of claims against the estate[.]'" *Marshall v. Marshall*, 547 U.S. 293, 303 (U.S. 2006) (quoting 28 U.S.C. 157§ (b)(2)). Importantly, a "determination that a proceeding is not a core proceeding shall not be made solely

on the basis that its resolution may be affected by State law.” 28 U.S.C. 157§ (b)(3).

5. *No stay relief sought or granted.* Bontecou has neither sought, much less been granted, relief from the automatic stay to pursue this lawsuit. See the bankruptcy case docket, attached and marked **Exhibit D**. Until the Houston Bankruptcy Court grants stay relief to Bontecou, if it ever does, this lawsuit is stayed by section 362(a) of title 11 of the U.S. Code.

PRAYER

Nadowessieux prays that the Court deny the motions to remand and grant Nadowessieux’s motion to transfer venue to the Houston Bankruptcy Court.

DATED: January 27, 2011

Respectfully submitted,

HOOVER SLOVACEK LLP

By: s/ Annie Catmull

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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2011, a true and correct copy of foregoing document was served (i) via the U.S. District Court's electronic notification system to andrea@arichardlaw.com, becca@arichardlaw.com, molly@arichardlaw.com and (ii) by first class mail upon the following:

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